

Indiana Optometry Board

A Compilation of the Indiana Code and Indiana Administrative

2015 Edition



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INDIANA OPTOMETRY BOARD

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ARTICLE 24. OPTOMETRISTS

IC 25-24-1

Chapter 1. Regulation of Optometrists . Creation of Board

IC 25-24-1-1 Indiana optometry board; organization; powers and duties

Sec. 1. (a) There is created the Indiana optometry board (referred to in this chapter as the board), whose duty it shall be to carry out this chapter. The board shall consist of six (6) members appointed by the governor. Five (5) of these members must have been resident optometrists, licensed under this chapter, engaged in the actual practice of optometry in Indiana for a period of five (5) years prior to their appointment, and not more than three (3) of the optometrist members may belong to the same political party. The sixth member of the board, to represent the general public, shall be a resident of this state who has never been associated with optometry in any way other than as a consumer. The appointed members shall serve for a term of three (3) years each, and each shall hold his office until his successor is appointed. Appointment to fill vacancies from any cause shall be made by the governor for the residue of the term. The members of the board, before entering on their duties, shall each take and subscribe to the oath required to be taken by other state officers, which shall be administered by the secretary of state and filed in his office; and the board shall have a common seal. The board:

- (1) shall administer oaths and take affidavits as required by this chapter, certified under the hand and the seal of the board;
- (2) shall require the attendance of witnesses and the production of books, records, and papers pertinent to any matters coming before the board; and
- (3) for that purpose may issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records, papers, or documents, directed to the sheriff of the county where the witness resides or is to be found, which shall be served and returned in the same manner as subpoenas in civil actions in the circuit court are served and returned.

(b) The board shall adopt rules, and do any and all things not inconsistent with this chapter which may be necessary or expedient for the effective enforcement of this chapter, for the full and efficient performance of its duties under this chapter, and for the reasonable regulation of the profession and practice thereof by persons licensed under this chapter.

(c) The board shall adopt rules, not inconsistent with this chapter, governing applicants and applications for license under this chapter and governing the examination of applicants before beginning the practice of optometry in this state, and shall establish a schedule of qualifications of applicants, and a schedule of the minimum requirements with which applicants for examination must comply before they can be examined or receive a license, which schedules of qualifications of applicants and of minimum requirements shall be kept in a record for that purpose by the board.

(d) The board shall establish and record, in a record kept for that purpose, a schedule of

the minimum requirements and rules for the recognition of schools of optometry, so as to keep the requirements of proficiency up to the average standard of other states.

(e) The board shall adopt rules establishing standards for the competent practice of optometry.

(f) The board shall assist in the prosecution of any violation of this chapter and assist in the enforcement of this chapter.

(g) The board shall utilize, when expedient, an agent whose title shall be inspector of the board, who shall hold office during the pleasure of the board and who shall, while in office, serve and execute any process or order issued by the board under this chapter. Such agents may enter any optometrist's establishment or any place where the optometrist is located for the purpose of practicing the optometry profession to inspect the premises and the licenses of all optometrists operating therein, and the inspector may inspect all instruments and patient records used in the conduct of the profession and all ophthalmic materials which are to be delivered to the public.

(h) The board shall utilize the services of attorneys and other necessary assistants in carrying out this chapter.

(i) The board may:

(1) grant or refuse to grant licenses as provided in this chapter;

(2) place any licensee on probation; and

(3) revoke or suspend the license, as provided in this chapter, of any optometrist for any violation of this chapter or for a violation of any rule of the board.

(j) The board has such other powers and duties as may be provided in this chapter.

(Formerly: Acts 1907, c.187, s.1; Acts 1913, c.359, s.2; Acts 1919, c.207, s.1; Acts 1929, c.45, s.1; Acts 1935, c.38, s.1.) As amended by Acts 1977, P.L.172, SEC.31; Acts 1979, P.L.17, SEC.47; Acts 1981, P.L.222, SEC.177; Acts 1982, P.L.113, SEC.60; P.L.169-1985, SEC.79.

IC 25-24-1-2 Meetings; quorum; record

Sec. 2. The board shall annually elect from its members a president and secretary. The board shall meet at least once each year, at Indianapolis, Indiana, and in addition thereto whenever and wherever the president and secretary thereof shall call a meeting; a majority of the board shall at all times constitute a quorum. The secretary provided for the board shall keep a full record of the proceedings of the board, which record shall at all reasonable times be open to public inspection.

(Formerly: Acts 1907, c.187, s.2; Acts 1935, c.38, s.2.) As amended by Acts 1981, P.L.222, SEC.178; Acts 1982, P.L.113, SEC.61.

IC 25-24-1-3 Examination; issuance of license; applicant licensed in other state; fees

Sec. 3. (a) Every person, except those exempted under this chapter, or those excepted from the taking of an examination under this chapter, before beginning the practice of optometry in this state, must pass an examination which shall be given or approved by the board.

(b) Any person desiring to be licensed by the board must fill out an application furnished by the board, which application must be verified by the applicant, and the applicant must file the verified application with the board. The applicant shall pay an application fee set by the board under section 1 of this chapter. If the applicant meets the requirements for licensure the applicant shall pay a further sum set by the board under

section 1 of this chapter before the board may issue a license to the applicant.

(c) All persons successfully passing the examination and meeting the requirements of the board shall be registered in a record and shall also receive a license to be signed by the president and secretary of the board.

(d) Any applicant may, at the discretion of the board, be licensed if the applicant presents evidence that the applicant has been issued a license by any other state where the requirements for licensure are, in the opinion of the board, equivalent to the requirements for licensure in this state, provided that the applicant has not previously failed an examination given or approved by the board. The fee for licensing such applicant shall be set by the board under section 1 of this chapter.

(e) A license issued under this section is valid for the remainder of the renewal period in effect on the date of issuance.

(Formerly: Acts 1907, c.187, s.3; Acts 1919, c.207, s.2; Acts 1935, c.38, s.3; Acts 1973, P.L.258, SEC.1.) As amended by Acts 1977, P.L.172, SEC.32; Acts 1981, P.L.222, SEC.179; P.L.169-1985, SEC.80; P.L.149-1987, SEC.68; P.L.33-1993, SEC.43.

IC 25-24-1-3.1 Repealed

(Repealed by P.L.33-1993, SEC.74.)

IC 25-24-1-3.2 Issuance of limited license

Sec. 3.2. (a) Notwithstanding section 3 of this chapter, the board may issue or renew a limited license to practice optometry at the Indiana University School of Optometry if the applicant:

(1) holds an active license in another jurisdiction; and

(2) meets the continuing education requirements under section 14.1 of this chapter.

(b) A limited license issued under this section is valid for two (2) years.

(c) A limited license issued under this section does not allow the holder of the license to be granted or have renewed a certificate to administer, dispense, or prescribe legend drugs unless the holder of the license meets the requirements of IC 25-24-3-12, IC 25-24-3-13, and IC 25-23-3-15.

As added by P.L.234-1995, SEC.19 and P.L.235-1995, SEC.9. Amended by P.L.157-2006, SEC.64.

IC 25-24-1-4 Practice of optometry defined

Sec. 4. The practice of optometry is hereby defined to be any one of the following acts, or any combination of, or part of the following acts:

(a) The examination or diagnosis of the human eye, to ascertain the presence of abnormal conditions or functions which may be diagnosed, corrected, remedied or relieved, or the application or prescription of lenses, prisms, exercises, or any physical, mechanical, physiological or psychological therapy, or the employment of any means, for the purpose of detecting any diseased or pathological condition of the eye, or the effects of any diseased or pathological condition of the eye, which may have any significance in a complete optometric diagnosis of the eye or its associated structures.

(b) The application, use, or adaption of physical, anatomical, physiological, psychological or any other principles through scientific professional methods and devices, to the examination of the eyes and vision, measuring their function for the purpose of determining the nature and degree of their departure from the normal, if any,

and adopting optical, physiological and psychological measures and/or the furnishing or providing any prosthetic or therapeutic devices for the emendation thereof.

(Formerly: Acts 1907, c.187, s.4; Acts 1913, c.359, s.3; Acts 1919, c.207, s.3; Acts 1935, c.38, s.4.)

IC 25-24-1-5 Application of chapter to physicians and surgeons

Sec. 5. Nothing in this chapter shall be considered to apply to physicians and surgeons who have been authorized to practice medicine, surgery (as described in IC 25-22.5-1-1.1(a)(1)(C)), and obstetrics under the laws of the state of Indiana.

(Formerly: Acts 1907, c.187, s.6; Acts 1935, c.38, s.5.) As amended by Acts 1982, P.L.154, SEC.85; P.L.217-1993, SEC.3.

IC 25-24-1-6 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-7 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-8 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-9 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-10 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-11 Repealed

(Repealed by Acts 1977, P.L.172, SEC.56.)

IC 25-24-1-12 Display of license

Sec. 12. Every person who is granted a license under this article shall display it in a conspicuous part of the office in which the licensee practices optometry. Whenever practicing the profession of optometry outside of, or away from, the office or place of business, the licensee shall make available to each patient or person fitted with ophthalmic materials the licensee's name, office address, and number of the license.

(Formerly: Acts 1907, c.187, s.14.) As amended by Acts 1977, P.L.172, SEC.33; P.L.169-1985, SEC.81.

IC 25-24-1-13 Compensation and expenses of board

Sec. 13. Each member of the board may receive as compensation a salary per diem for each day actually engaged in the duties of his office and necessary travel expenses incurred in attending the meetings of the board in accordance with travel policies and procedures established by the department of administration and the state budget agency. All expenses shall be paid from the general fund upon appropriation being made therefor in the manner provided by law for the making of such appropriations. All fees and assessments received under the provisions of this chapter shall be deposited with the treasurer of the state of Indiana, and be deposited by him in the general fund of the state. The treasurer shall pay the per diem expenses as provided herein only on the itemized

verified statement of the person entitled thereto. In accordance with IC 25-1-5, said board is expressly authorized to use any part of said appropriated funds available for the purpose of assisting in prosecuting any person violating any of the provisions of this chapter, or for the purpose of enforcing by legal action, any of the provisions of this chapter.

(Formerly: Acts 1907, c.187, s.15; Acts 1913, c.359, s.5; Acts 1919, c.207, s.4; Acts 1935, c.38, s.8.) As amended by Acts 1976, P.L.119, SEC.17; Acts 1981, P.L.222, SEC.180.

IC 25-24-1-14 License renewal; fee; failure to renew; expiration of license; inactive license

Sec. 14. (a) In each even-numbered year, the Indiana professional licensing agency shall issue a ninety (90) day notice of expiration and a license renewal application in accordance with IC 25-1-2-6 to each optometrist licensed in Indiana. The application shall be mailed to the last known address of the optometrist.

(b) The payment of the renewal fee must be made on or before the date established by the licensing agency under IC 25-1-5-4. Subject to IC 25-1-2-6(e), the applicant's license expires and becomes invalid if the applicant has not paid the renewal fee by the date established by the licensing agency.

(c) The license shall be reinstated by the board not later than three (3) years after its expiration if the applicant for reinstatement meets the requirements under IC 25-1-8-6(c).

(d) Reinstatement of an expired license after the expiration of the three (3) year period provided in subsection (c) is dependent upon the applicant satisfying the requirements for reinstatement under IC 25-1-8-6(d).

(e) The board may classify a license as inactive if the board receives written notification from a licensee stating that the licensee will not maintain an office or practice optometry in Indiana. The renewal fee for an inactive license is one-half (1/2) the license renewal fee set by the board under section 1 of this chapter.

(f) The holder of an inactive license is not required to fulfill continuing education requirements set by the board. The board may issue a license to the holder of an inactive license if the applicant:

- (1) pays the renewal fee set by the board under section 1 of this chapter;
- (2) pays the reinstatement fee set by the board under section 1 of this chapter; and
- (3) subject to IC 25-1-4-3, attests that the applicant obtained the continuing education required by the board under section 1 of this chapter for each year, or portion of a year during which the applicant's license has been classified as inactive.

(Formerly: Acts 1907, c.187, s.16; Acts 1925, c.193, s.1; Acts 1929, c.45, s.2; Acts 1935, c.38, s.9; Acts 1972, P.L.187, SEC.1; Acts 1973, P.L.258, SEC.2.) As amended by Acts 1977, P.L.172, SEC.34; Acts 1981, P.L.229, SEC.1; Acts 1981, P.L.222, SEC.181; P.L.169-1985, SEC.82; P.L.149-1987, SEC.70; P.L.48-1991, SEC.43; P.L.269-2001, SEC.24; P.L.1-2006, SEC.459; P.L.105-2008, SEC.45; P.L.177-2015, SEC.62.

IC 25-24-1-14.1 Continuing professional education; renewal of license

Sec. 14.1. No biennial renewal license shall be issued by the board until the applicant submits proof satisfactory to the board that subsequent to the issuance of his license, or last renewal thereof, he has completed continuing professional education, including

postgraduate studies, institutes, seminars, lectures, conferences, workshops, and such other forms of continuing professional education as may be approved by the board. The number of hours and other requirements relating to this section shall be established by the board.

(Formerly: Acts 1973, P.L.259, SEC.1.) As amended by Acts 1977, P.L.172, SEC.35; Acts 1981, P.L.229, SEC.2.

IC 25-24-1-15 Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-24-1-15.1 Repealed

(Repealed by P.L.152-1988, SEC.30.)

IC 25-24-1-16 Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-24-1-17 Specific violations

Sec. 17. The following are unlawful and a violation of this chapter:

(1) For any person or persons to open an office for the purpose of practicing optometry in this state, or to announce to the public in any way an intention to practice optometry in any county in this state, without first having obtained a license from the board.

(2) For any person or persons, except a licensed optometrist or optometrists under this chapter whose licenses have not been revoked or lapsed, to hold himself out by the use of any sign, newspaper, advertisement, pamphlet, circular, or any other means as qualified to practice optometry.

(3) For any person or persons, except a licensed optometrist or optometrists under this chapter whose licenses have not been revoked or lapsed, to have possession of any trial lenses, trial frames, graduated test cards, or other appliances or instruments used in the practice of optometry for the purpose of rendering assistance to patrons in the selection of contact lenses, lenses, or eyeglasses, or to sell ophthalmic lenses or to replace broken contact lenses or lenses in eyeglasses except upon the prescription of a regularly licensed optometrist, or a physician and surgeon exempted by this chapter. An ophthalmic lens, within the meaning of this chapter, is any lens which has a spherical or cylindrical or prismatic power or value and is ground pursuant to a prescription.

(4) For any person, not licensed under this chapter or who has not paid the annual renewal fee as in this chapter provided to be paid, to practice optometry as defined in this chapter.

(Formerly: Acts 1907, c.187, s.18; Acts 1929, c.45, s.3; Acts 1935, c.38, s.12.) As amended by Acts 1977, P.L.172, SEC.38; P.L.252-1983, SEC.1.

IC 25-24-1-18 Violations

Sec. 18. A person who violates this chapter commits a Class B misdemeanor.

(Formerly: Acts 1907, c.187, s.19; Acts 1913, c.359, s.7; Acts 1929, c.45, s.4.) As amended by Acts 1978, P.L.2, SEC.2544.

IC 25-24-1-19 Injunction of violations

Sec. 19. (a) Whenever it appears to the board that any person or persons are engaged in the illegal practice of optometry as defined by this chapter, or that any person or persons are engaged in the practice of optometry without a license as required by this chapter, or that any person or persons are engaged in the practice of optometry in violation of this chapter, then the board, may, in addition to any other remedies provided for in this chapter, bring an action in the name of the state, on the relation of the board, against such person or persons, or against any other person or persons concerned in or in any way participating in such illegal practice of optometry as defined by this chapter, or against any person or persons engaged in the practice of optometry without a license as required by this chapter, or against any person or persons engaged in the practice of optometry in violation of this chapter, to enjoin such person or persons, or such other person or persons:

- (1) from continuing the illegal practice of optometry as defined by this chapter;
- (2) from engaging in the practice of optometry without a license as required by this chapter;
- (3) from engaging in the practice of optometry in violation of this chapter; or
- (4) from doing any other act or acts in furtherance thereof.

(b) In an action under subsection (a), a judgment may be entered awarding such injunction as may be proper.

(Formerly: Acts 1907, c.187, s.19a; Acts 1935, c.38, s.13.) As amended by Acts 1977, P.L.172, SEC.39; P.L.169-1985, SEC.84.

IC 25-24-1-20 Certificates considered licenses

Sec. 20. All certificates issued by the Indiana state board of registration and examination in optometry issued prior to May 1, 1977, shall be deemed to be licenses for the practice of optometry. All applications for the practice of optometry and all renewal notices sent for the practice of optometry in Indiana shall be for licenses and not for certificates of registration. For the purposes of this chapter, all certificates of registration and renewals for certificates of registration for the practice of optometry shall be the same as licenses and renewals for licenses issued subsequent to May 1, 1977.

As added by Acts 1977, P.L.172, SEC.40.

INDIANA CODE § 25-24-2**Chapter 2. Further Licensing Requirements, Establishment of Training Program and Special Fee****IC 25-24-2-1 Minimum requirements; disciplinary action in another state**

Sec. 1. (a) The minimum requirements which must be fulfilled before an applicant will be permitted to take an examination for a license to practice optometry in Indiana are as follows:

- (1) Applicant must be at least eighteen (18) years of age.
- (2) Applicant must not have a conviction for:
 - (A) an act which would constitute a ground for disciplinary sanction under IC 25-

- 1-9; or
(B) a crime that has a direct bearing on the applicant's ability to practice competently.
- (3) Applicant must be a graduate of a commissioned high school.
- (4) Applicant must be a graduate from a college of optometry under one (1) of the following conditions:
- (A) Graduation prior to March 5, 1951, or attendance at or matriculation in a college of optometry whose requirements for graduation were equivalent to those required by the Indiana state board of registration and examination in optometry at the time of such matriculation.
- (B) Two (2) years of preoptometry or two (2) years of premedicine in a college of arts and science whose credits will be accepted by a university having a college or school of optometry, and at least four (4) years of optometry in a college of optometry using university standards.
- (b) The board may not issue a license to an applicant who has been disciplined by the licensing entity of another state or jurisdiction, if it appears to the satisfaction of the board that the disciplinary action taken against the applicant by the licensing entity of the other state or jurisdiction was warranted due to the applicant's inability to practice optometry without endangering the public.
- (Formerly: Acts 1951, c.190, s.1; Acts 1972, P.L.187, SEC.2; Acts 1973, P.L.252, SEC.11.) As amended by Acts 1981, P.L.222, SEC.183; Acts 1982, P.L.113, SEC.63; P.L.169-1985, SEC.85; P.L.152-1988, SEC.20.*

IC 25-24-2-2 Program for training optometrists

Sec. 2. There is hereby created a program for the training of optometrists at Indiana University, said program to be established by the trustees of said University and to be effective when adequate funds for the establishment of said program are made available by the optometrists of the state of Indiana through the Indiana Optometric Association, Inc., or otherwise.

(Formerly: Acts 1951, c.190, s.2.)

IC 25-24-2-3 Additional fees for university support

Sec. 3. In addition to the biennial licensure fee provided for by IC 25-24-1-1, each licensed optometrist, at the time of payment of the biennial licensure fee each even-numbered year, shall pay to the Indiana professional licensing agency an additional fee of thirty-four dollars (\$34), which shall be deposited in an optometry school account of the state general fund, and all such fees so deposited shall, before the following July 2, be paid to Indiana University to be used by it for the advancement of optometrical research and the maintenance and support of the department in which the science of optometry is taught at the university. A sufficient amount to pay the same is appropriated annually out of such account in the general fund of the state treasury not otherwise appropriated.

(Formerly: Acts 1951, c.190, s.3.) As amended by Acts 1977, P.L.172, SEC.41; Acts 1981, P.L.229, SEC.3; Acts 1981, P.L.222, SEC.184; P.L.169-1985, SEC.86; P.L.1-2006, SEC.460.

INDIANA CODE § 25-24-3

Chapter 3. Optometric Legend Drugs

IC 25-24-3-0.3 Treatment of rules adopted by optometric legend drug prescription advisory committee

Sec. 0.3. The rules adopted by the optometric legend drug prescription advisory committee under IC 25-26-15-13 (before its repeal by P.L.157-2006) before July 1, 2006, and in effect on June 30, 2006, shall be treated after June 30, 2006, as the rules of the Indiana optometry board under this chapter, as added by P.L.157-2006.

As added by P.L.220-2011, SEC.410.

IC 25-24-3-1 "Associated structures of the eye" defined

Sec. 1. As used in this chapter, "associated structures of the eye" means the:

- (1) eyelids;
- (2) eyebrows;
- (3) conjunctiva;
- (4) lachrymal apparatus; and
- (5) orbital tissues.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-2 "Administer" defined

Sec. 2. As used in this chapter, "administer" means the direct application of a legend drug by an optometrist to a patient.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-3 "Board" defined; treatment of references to optometric legend drug prescription advisory committee

Sec. 3. (a) As used in this chapter, "board" means the Indiana optometry board established by IC 25-24-1-1.

(b) Any reference in a law, a rule, a license, a registration, a certification, or an agreement to the optometric legend drug prescription advisory committee shall be treated after June 30, 2006, as a reference to the board.

As added by P.L.157-2006, SEC.65. Amended by P.L.220-2011, SEC.411.

IC 25-24-3-4 "Diagnostic legend drug" defined

Sec. 4. As used in this chapter, "diagnostic legend drug" means a pharmacological agent approved by the board that is used in the examination of the human eye to detect abnormalities.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-5 "Dispense" defined

Sec. 5. As used in this chapter, "dispense" means to deliver a legend drug to an ultimate user by or pursuant to a lawful order of an optometrist. The term includes the:

- (1) prescribing;
- (2) administering;
- (3) packaging;

(4) labeling; or
(5) compounding;
necessary to prepare the drug for delivery.
As added by P.L.157-2006, SEC.65.

IC 25-24-3-6 "Legend drug"

Sec. 6. As used in this chapter, "legend drug" has the meaning set forth in IC 16-18-2-199. The term does not include controlled substances (as defined in IC 35-48-1-9) other than Tramadol (Ultram).

As added by P.L.157-2006, SEC.65. Amended by P.L.56-2015, SEC.1.

IC 25-24-3-7 "Optometrist" defined

Sec. 7. As used in this chapter, "optometrist" means an individual licensed as an optometrist under IC 25-24-1.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-8 "Prescription" defined

Sec. 8. As used in this chapter, "prescription" means a written order or an order transmitted by other means of communication that is immediately reduced to writing by the pharmacist or, for electronically transmitted orders, recorded in an electronic format from an optometrist to or for an ultimate user for a drug or device, containing:

- (1) the name and address of the patient;
- (2) the date of issue;
- (3) the name and strength or size (if applicable) of the drug or device;
- (4) the amount to be dispensed (unless indicated by directions and duration of therapy);
- (5) adequate directions for the proper use of the drug or device by the patient;
- (6) the name and certification number of the prescribing optometrist; and
- (7) if the prescription:
 - (A) is in written form, the signature of the optometrist; or
 - (B) is in electronic form, the electronic signature of the optometrist.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-9 "Therapeutic legend drug" defined

Sec. 9. As used in this chapter, "therapeutic legend drug" means a pharmacological agent that is used in the treatment of a diagnosed condition of the:

- (1) human eye; or
- (2) associated structures of the human eye.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-10 Duties of board

Sec. 10. The board shall do the following:

- (1) Adopt rules under IC 4-22-2 to do the following:
 - (A) Establish a formulary of legend drugs that may be prescribed, dispensed, or administered by an optometrist.
 - (B) Set fees described in IC 25-1-8.
 - (C) Carry out this chapter.
- (2) Establish education and training requirements in ocular pharmacology required

for certification to do the following:

- (A) Administer therapeutic legend drugs.
- (B) Dispense legend drugs.
- (C) Prescribe legend drugs.

(3) Establish continuing education requirements for renewal of the certificate issued under this chapter.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-11 Formulary requirements; dependently and independently prescribed legend drugs

Sec. 11. (a) The formulary established under section 10 of this chapter shall include legend drugs that:

- (1) may be independently prescribed by an optometrist; or
- (2) must be dependently prescribed by an optometrist.

(b) If a legend drug is designated in the formulary as one (1) that must be dependently prescribed, the formulary must designate:

- (1) those legend drugs for which the optometrist must only notify the patient's physician that the optometrist is prescribing the legend drug; and
- (2) those legend drugs for which the optometrist must consult with the patient's physician before prescribing the legend drug.

(c) If the patient has no physician, the optometrist must document such in the patient's file.

(d) If the legend drug is designated in the formulary as a legend drug that must be dependently prescribed, the optometrist shall indicate on the prescription that:

- (1) the patient's physician has been contacted; or
- (2) the patient has indicated to the optometrist that the patient has no physician.

(e) If the legend drug is designated in the formulary as a legend drug that may be independently prescribed, the optometrist may prescribe the legend drug without notifying the patient's physician.

As added by P.L.157-2006, SEC.65. Amended by P.L.1-2007, SEC.178.

IC 25-24-3-12 Certificate issuance

Sec. 12. The board shall issue a certificate to a licensed optometrist who:

- (1) applies; and
- (2) successfully fulfills all the requirements of this chapter.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-13 Application requirements

Sec. 13. An optometrist who applies for a certificate to administer, dispense, and prescribe legend drugs must meet the following requirements:

- (1) Apply in the form and manner prescribed by the board.
- (2) Provide proof of education in ocular pharmacology from a school or college of optometry or medicine approved by the optometry board.
- (3) Pass the Treatment and Management of Ocular Disease (TMOD) examination that is sponsored by the International Association of Boards of Examiners in Optometry (IAB) and administered by the National Board of Examiners in

Optometry.

(4) Pay the fee established by the board.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-14 Optometry license required to hold certificate

Sec. 14. An applicant must hold a license to practice optometry in order to hold a certificate.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-15 Certificate renewal

Sec. 15. The board shall renew a certificate issued under this chapter:

- (1) concurrently with the renewal of the optometrist's license to practice optometry;
- (2) upon payment of the renewal fee established by the board; and
- (3) upon completion of continuing education requirements established under section 10 of this chapter.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-16 Diagnostic legend drugs; therapeutic legend drugs

Sec. 16. (a) Optometrists may administer topical diagnostic legend drugs limited to:

- (1) miotics;
- (2) mydriatics;
- (3) anesthetics; and
- (4) cycloplegics;

without holding a certificate issued under this chapter. These pharmaceutical agents may be applied in diagnostic procedures only as a part of an examination of the eye.

(b) The board may authorize an optometrist holding a certificate issued under this chapter to:

- (1) administer for therapeutic use;
- (2) dispense; or
- (3) prescribe;

legend drugs that are included in the formulary established by the board under section 10 of this chapter, in the treatment of any condition of the eye or the associated structures of the eye.

As added by P.L.157-2006, SEC.65.

IC 25-24-3-16.5 Optometrists; prescribing a certain controlled substance

Sec. 16.5. An optometrist who:

- (1) holds a license under this article;
 - (2) meets the requirements of this chapter for certification to administer, dispense, or prescribe a legend drug; and
 - (3) maintains a controlled substance registration under IC 35-48-3;
- may prescribe Tramadol (Ultram).

As added by P.L.56-2015, SEC.2.

IC 25-24-3-17 Penalties for noncompliance

Sec. 17. (a) An optometrist may not:

- (1) administer, dispense, or prescribe therapeutic legend drugs; or

(2) dispense or prescribe diagnostic legend drugs;
unless the optometrist is certified under this chapter.

(b) An optometrist may administer diagnostic legend drugs without obtaining a certificate under this chapter.

(c) An individual who recklessly, knowingly, or intentionally violates this chapter commits a Class A misdemeanor.

As added by P.L.157-2006, SEC.65.

***TITLE 852 INDIANA OPTOMETRY BOARD**

*NOTE: Originally adopted by the Indiana State Board of Registration and Examination in Optometry.
Name changed by P.L.169-1985, SECTION 79, effective July 1, 1985.*

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Educational Requirements (Repealed)

(Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509)

Rule 1.1. Qualifications of Applicants for an Optometry License and Certificate for an Indiana Optometric Legend Drug Certificate

852 IAC 1-1.1-1 Requirements for taking examination (Repealed)

Sec. 1. (Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)

852 IAC 1-1.1-2 Nonaccredited school graduates; admission to examination (Repealed)

Sec. 2. (Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)

852 IAC 1-1.1-2.5 Applicability

Authority: IC 25-24-1-1; IC 25-24-3-10

Affected: IC 25-24-1-3; IC 25-24-3

Sec. 2.5. This rule establishes the requirements concerning the applications and fees for issuance or renewal of the following:

(1) Licenses for optometrists.

(2) Certificates for optometrists to administer, dispense, and prescribe legend drugs as provided for under IC 25-24-3.

(Indiana Optometry Board; 852 IAC 1-1-2.5; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-1.1-3 Application form

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. The application shall be completed on a form furnished by the board and filed with the board.

(Indiana Optometry Board; 852 IAC 1-1.1-3; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-1.1-4 Applicant fees, transcripts, examination scores, and photographs for an optometry license

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. (a) Each applicant for an optometry license shall submit the following:

- (1) The application fee required by 852 IAC 1-10-1.
- (2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an accredited optometry school.
- (3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.
- (4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."
- (5) Proof of current certification in basic life support (BLS) or cardiopulmonary resuscitation (CPR) given by the American Heart Association, American Red Cross, or a provider approved by the board.

(b) The board adopts the procedures and standards of the Accreditation Council on Optometric Education for approval of schools of optometry and will only accept graduates of optometry schools accredited by the council as applicants for licensure, provided all other requirements are met.

(Indiana Optometry Board; 852 IAC 1-1.1-4; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 1, 1981, 9:15 a.m.: 4 IR 2026; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1373; errata, 9 IR 2064; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2333; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Jan 16, 2003, 10:46 a.m.: 26 IR 1944; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-1.1-5 Information not received; effect

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5. (a) An application for an optometry license may be denied or deferred if any of the required information has not been received.

(b) An applicant who applies for licensure under IC 25-24-1-3 bears the burden of proving that the requirements of the state in which the applicant currently is licensed are equivalent to those requirements set forth in section 4 of this rule. The applicant shall submit documentation required by section 4 of this rule, as well as any other documentation required by the board, to make a determination as to whether the requirements of the other state are equivalent to those set forth in section 4 of this rule.

(c) If an applicant holds a current certificate issued by the Association of Regulatory Boards (ARBO), Council on Endorsed Licensure Mobility for Optometrists (CELMO), applicants will not be required to submit proof of education. The applicant will be required to submit verification of the certificate from ARBO.

(d) An application is abandoned without an action of the board, if the applicant does not complete the application within one (1) year after the date on which the

application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

(Indiana Optometry Board; 852 IAC 1-1.1-5; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Sep 21, 1992, 9:00 a.m.: 16 IR 724; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-1.1-6 Failure to appear for examination; forfeiture of fees (Repealed)

Sec. 6. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

Rule 2. Reciprocity (Repealed)

(Repealed by Indiana Optometry Board; filed Jul 29, 1980, 9:35 am: 3 IR 1509)

Rule 2.1. Reciprocity

852 IAC 1-2.1-1 Requirements for license by reciprocity (Repealed)

Sec. 1. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-2.1-2 Application file; contents

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. An applicant for an optometry license by endorsement shall submit the following:

- (1) The application fee required by 852 IAC 1-10-1(a)(1).
- (2) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an optometry school accredited by the Accreditation Council on Optometric Education.
- (3) The official score report from the National Board of Examiners in Optometry with passing scores in all parts, including the treatment and management of ocular disease examination.
- (4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."
- (5) A statement from the appropriate agency in each state where the applicant has been licensed, certifying whether or not disciplinary proceedings have ever been initiated or are presently pending against the applicant.
- (6) A statement from the appropriate agency in each state where the applicant has been licensed by examination, holds an active license, and from which the applicant is endorsing, certifying areas of examination, type of examination, pass-fail criteria, and the applicant's score in each area of examination.
- (7) Proof of current certification in basic life support (BLS) or cardiopulmonary resuscitation (CPR) given by the American Heart Association, American Red Cross, or a provider approved by the board.

(Indiana Optometry Board; 852 IAC 1-2.1-2; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1507; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1374; filed Dec 8, 1987, 9:45 a.m.: 11 IR 1292; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1220; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2334; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-2.1-3 Personal interview (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-2.1-4 Jurisprudence examination

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An applicant for an optometry license by examination or endorsement must pass an examination covering Indiana law relating to the practice of optometry. A score of seventy-five (75) or above is passing.

(Indiana Optometry Board; 852 IAC 1-2.1-4; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1508; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1374; filed Dec 8, 1987, 9:45 a.m.: 11 IR 1293; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-2.1-5 Failing examination; effect on license by reciprocity (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)*

852 IAC 1-2.1-6 Requirements for an Indiana optometric legend drug certificate

Authority: IC 25-24-3-10

Affected: IC 25-24-3

Sec. 6. To obtain an Indiana optometric legend drug certificate, an optometrist shall submit the following:

- (1) Submit the application fee required by 852 IAC 1-10-1(a)(8).
- (2) Complete an Indiana optometric legend drug certificate application.
- (3) Provide a score report certifying successful completion of the Treatment and Management of Ocular Disease (TMOD) examination administered by the National Board of Examiners in Optometry (NBEO).

(Indiana Optometry Board; 852 IAC 1-2.1-6; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 3. Rules of Practice

852 IAC 1-3-1 Optometric procedures; patient records

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. (a) An optometrist will utilize the usual and normal clinical optometric procedures taught in the accredited schools and colleges of optometry approved by the board and the clinical optometric procedures in which he or she demonstrated proficiency and mastery in order to obtain a certificate and license to practice optometry in the state of Indiana.

(b) An optometrist will maintain adequate and detailed patient records to describe and document his or her procedures, observations, and the disposition of the case.
(Indiana Optometry Board; Rule 1; filed Nov 29, 1972, 3:00 p.m.: Rules and Regs. 1973, p. 685; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 4. Use of Assumed Name (Repealed)

(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

Rule 5. Duty Concerning Prescriptions (Repealed)

(Repealed by Indiana Optometry Board; filed Dec 22, 1987, 2:35 pm: 11 IR 1606)

Rule 5.1. Duty Concerning Prescriptions in Optometric Practice

852 IAC 1-5.1-1 General responsibilities

Authority: IC 25-24-1-1

Affected: IC 16-39-1-1; IC 25-24-1-1; IC 25-24-1-4

Sec. 1. (a) In the practice of optometry as defined by IC 25-24-1-4, an optometrist has a responsibility to do the following:

- (1) Properly examine the patient to determine the patient's ophthalmic needs.
- (2) Prepare a proper prescription when indicated to adequately fulfill the patient's needs.
- (3) Determine the expiration of the prescription. The date of expiration of the prescription for a contact lens prescription shall not exceed one (1) year from the date of issuance by the prescribing optometrist.
- (4) Verify the optical materials resulting from the prescription in order to determine whether or not the optical materials meet the needs of the patient.
- (5) Verify that any optical materials that have been dispensed as a result of the prescription meet the needs of the patient.

(b) If an optometrist prescribes contact lenses for a patient, the optometrist has a responsibility to do the following:

- (1) Perform all procedures required by subsection (a).

- (2) Examine the patient and evaluate the contact lens with the contact lens on the eye.
- (3) Be personally and directly involved with the follow-up care of the contact lens patient.
- (4) Release contact lens information to a patient in accordance with IC 16-39-1-1 and 16 CFR 315.

(Indiana Optometry Board; 852 IAC 1-5.1-1; filed Dec 22, 1987, 2:35 p.m.: 11 IR 1605; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 6. Professional Identification

852 IAC 1-6-1 Misleading identification as to license status

Authority: IC 25-24-1-1

Affected: IC 25-24-1-15.1

Sec. 1. With the exception of a not for profit corporation approved by the Board and/or optometric clinic operated in conjunction with and by an accredited optometry school approved by the Board, no optometrist shall practice in any office, location or place of practice where any name, names or professional identification on or about the door, window, wall, directory, or any sign or listing whatsoever, or in any manner used in connection therewith, shall indicate or tend to indicate by location or otherwise or give the impression to the public that an optometrist is directly or indirectly employed by or connected with or indicates that such office, location, or place of practice is owned, operated, supervised, staffed, directed or attended by any firm, person or corporation not certified and licensed to practice optometry in the State of Indiana.

(Indiana Optometry Board; Rule 4; filed Nov 29, 1972, 3:00 pm: Rules and Regs. 1973, p. 686; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

Rule 7. Continuing Education for Renewal of License

852 IAC 1-7-1 Establishment of number of hours required (Repealed)

Sec. 1. *(Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)*

852 IAC 1-7-1.1 Number of hours required (Repealed)

Sec. 1.1. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

852 IAC 1-7-2 Recognition of certificate (Repealed)

Sec. 2. *(Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)*

852 IAC 1-7-2.1 Verification of attendance by licensee on state form 2758; sponsor verification (Repealed)

Sec. 2.1. *(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)*

852 IAC 1-7-3 Exemptions (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Jul 13, 1982, 9:38 am: 5 IR 1848)*

852 IAC 1-7-3.1 Deadline for reporting credits by licensee (Repealed)

Sec. 3.1. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

852 IAC 1-7-4 Approval of programs (Repealed)

Sec. 4. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

852 IAC 1-7-5 Penalty for noncompliance (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed Jul 23, 1987, 9:15 am: 10 IR 2738)*

Rule 8. Board Examination

852 IAC 1-8-1 Definitions

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. (a) The definitions in this section apply throughout this title.

(b) "Agency" means the Indiana professional licensing agency.

(c) "Board" means the Indiana optometry board.

(d) "COPE" means the Council on Optometric Practitioner Education.

(e) "Examination" means the examination for licensure required by the board.

(Indiana Optometry Board; 852 IAC 1-8-1; filed Jul 29, 1980, 9:35 a.m.: 3 IR 1508; filed Feb 4, 1986, 2:22 p.m.: 9 IR 1376; filed Nov 10, 1987, 9:33 a.m.: 11 IR 1293; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-8-2 Written board examination; contents (Repealed)

Sec. 2. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-3 Clinical board examination; contents (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-4 Interview (Repealed)

Sec. 4. *(Repealed by Indiana Optometry Board; filed Sep 1, 1981, 9:15 am: 4 IR 2027)*

852 IAC 1-8-5 Written examination; passing score (Repealed)

Sec. 5. *(Repealed by Indiana Optometry Board; filed Feb 4, 1986, 2:22 pm: 9 IR 1377)*

852 IAC 1-8-5.1 Written examination; passing score (Repealed)

Sec. 5.1. *(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

852 IAC 1-8-6 Examination; passing score; failure for second time; fee (Repealed)

Sec. 6. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

852 IAC 1-8-7 Appeals (Repealed)

Sec. 7. *(Repealed by Indiana Optometry Board; filed Feb 13, 1992, 10:00 a.m.: 15 IR 1221)*

Rule 9. Notification of Practice Location (Repealed)

(Repealed by Indiana Optometry Board; filed May 11, 1987, 9:00 am: 10 IR 1881)

Rule 10. Fees and Renewal Requirements

852 IAC 1-10-1 Fees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 1. (a) The board shall charge the following fees related to the practice of optometry:

- | | |
|--|------------------|
| (1) Application for licensure: | \$200 |
| (2) License renewal: | \$100 biennially |
| (3) Inactive license renewal: | \$50 biennially |
| (4) University support fee: | \$34 biennially |
| (5) Verification of licensure: | \$10 |
| (6) Reinstatement of inactive license: | \$50 |
| (7) Application for an optometric legend drug certificate: | \$20 |
| (8) Optometric legend drug certificate renewal: | \$20 |

(b) The board shall renew the optometric legend drug certificate concurrently with the license of an optometrist to practice in Indiana.

(Indiana Optometry Board; 852 IAC 1-10-1; filed Jul 12, 1985, 3:48 p.m.: 8 IR 2038; filed May 11, 1987, 9:00 a.m.: 10 IR 1876; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; filed Apr 19, 1991, 3:05 p.m.: 14 IR 1728; filed May 20, 1996, 3:00 p.m.: 19 IR 2880; readopted filed Jan 7, 2002, 10:00 a.m.: 25 IR 1732; readopted filed Sep 26, 2008, 10:54

a.m.: 20081015-IR-852080345RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-10-2 Fees for university support

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-2-3

Sec. 2. The university support fee in section 1 of this rule shall be submitted by the agency to the Indiana University School of Optometry as provided by IC 25-24-2-3. *(Indiana Optometry Board; 852 IAC 1-10-2; filed Oct 28, 1988, 2:10 p.m.: 12 IR 592; readopted filed Dec 4, 2001, 10:15 a.m.: 25 IR 1732; readopted filed Sep 26, 2008, 10:54 a.m.: 20081015-IR-852080345RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

Rule 11. Competent Practice of Optometry; Standards

852 IAC 1-11-1 Duties and responsibilities of optometrists

Authority: IC 25-24-1-1

Affected: IC 25-24-1-4

Sec. 1. An optometrist shall conduct his or her practice in accordance with the following standards, including, but not limited to:

(1) A licensed optometrist is professionally competent if in the practice of optometry, he or she exercises the reasonable care and diligence ordinarily exercised by members of his or her profession in similar cases under like conditions.

(2) A practitioner has a duty and responsibility to employ the necessary means in order to obtain a complete diagnosis of the human eye, visual system, or associated structures as specified by IC 25-24-1-4.

(3) A practitioner has a duty and responsibility as part of a complete diagnosis to maintain comprehensive patient records including, but not limited to, systemic and ocular health, medications, allergies, family history, prior eye care, systemic and ocular problems, examination results, treatments, drugs, agents, or other devices administered, prescribed, or dispensed, including all follow-up examinations and treatments.

(Indiana Optometry Board; 852 IAC 1-11-1; filed May 11, 1987, 9:00 a.m.: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 12. Professional Conduct; Standards

852 IAC 1-12-1 Duties of optometrist

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. An optometrist in the conduct of his practice of optometry shall abide by, and comply with, the following standards of professional conduct: (a) An optometrist shall maintain the confidentiality of all knowledge and information regarding a patient,

including, but not limited to, the patient's diagnosis, treatment and prognosis, and of all records relating thereto, about which the optometrist may learn or otherwise be informed during the course of, or as a result of, the patient-optometrist relationship. Information about a patient shall be disclosed by an optometrist when required by law or when authorized by the patient or those responsible for the patient's care.

(b) An optometrist shall give a truthful, candid and reasonably complete account of the patient's condition to the patient or to those responsible for the patient's care, except where an optometrist reasonably determines that the information is or would be detrimental to the physical or mental health of the patient, or in the case of a minor or incompetent person, except where an optometrist reasonably determines that the information would be detrimental to the physical or mental health of those responsible for the patient's care.

(c)(1) The optometrist shall give reasonable written notice to an active patient or those responsible for the patient's care when the optometrist withdraws from a case so that another optometrist may be employed by the patient or by those responsible for the patient's care. An optometrist shall not abandon a patient. As used in this section, "active patient" means a person whom the optometrist has examined, cared for, or otherwise consulted with, during the two-year period prior to retirement, discontinuation of practice of optometry, or leaving or moving from the community.

(2) An optometrist who withdraws from a case, except in emergency circumstances, shall, upon written request, make available to his patient all records, test results, histories, diagnoses, files and information relating to said patient which are in the optometrist's custody, possession or control, or copies of such documents hereinbefore described.

(d) An optometrist shall exercise reasonable care and diligence in the diagnosis and treatment of patients based upon approved scientific principles, methods, treatments, professional theory and practice.

(e) An optometrist shall not represent, advertise, state or indicate the possession of any degree recognized as the basis for licensure to practice optometry unless the optometrist is actually licensed on the basis of such degree in the state(s) in which he practices.

(f) An optometrist shall obtain consultation whenever requested to do so by a patient or by those responsible for a patient's care.

(g) An optometrist who has personal knowledge based upon a reasonable belief that another optometrist has engaged in illegal, unlawful, incompetent or fraudulent conduct in the practice of optometry shall promptly report such conduct to the board. Further, an optometrist who has personal knowledge of any person engaged in, or attempting to engage in, the unauthorized practice of optometry shall promptly report such conduct to the board.

(Indiana Optometry Board; 852 IAC 1-12-1; filed May 11, 1987, 9:00 am: 10 IR 1876; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-2 Fees for services

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Fees charged by an optometrist for his professional services shall compensate the optometrist only for the services actually rendered.

(b) An optometrist shall not divide a fee for professional services with another practitioner who is not a partner, employee, or shareholder in a professional corporation, unless:

(1) the patient consents to the employment of the other practitioner after a full disclosure that a division of fees will be made, and

(2) the division of fees is made in proportion to actual services performed and responsibility assumed by each practitioner.

(c) An optometrist shall not pay or accept compensation from a practitioner for referral of a patient.

(Indiana Optometry Board; 852 IAC 1-12-2; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-3 Responsibility for employees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. An optometrist shall be responsible for the conduct of each and every person employed by the optometrist for every action or failure to act by said employee or employees in the course of said employee(s) relationship with said optometrist; provided, however, that an optometrist shall not be responsible for the action of persons he may employ whose employment by the optometrist does not relate directly to the optometrist's practice of optometry.

(Indiana Optometry Board; 852 IAC 1-12-3; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-4 Referral

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 4. An optometrist may, whenever the optometrist believes it to be beneficial to the patient, send or refer a patient to a qualified specific health care provider. Prior to any such referral, however, the optometrist shall examine and/or consult with the patient to reasonably determine that a condition exists in the patient which would be within the scope of practice of the specific health care provider to whom the patient is referred.

(Indiana Optometry Board; 852 IAC 1-12-4; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-5 Discontinuation of practice

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 5. (a) An optometrist, upon his retirement or upon discontinuation of the practice of optometry, or upon leaving or moving from a community, shall notify all of his active patients in writing, or by publication once a week for three (3) consecutive weeks, in a newspaper of general circulation in the community, that he intends to discontinue his practice of optometry in the community, and shall encourage his patients to seek the services of another licensed practitioner. The optometrist discontinuing his practice shall make reasonable arrangements with his active patients for the transfer of his records, or copies, thereof, to the succeeding practitioner or an optometric association approved by the board.

(b) Nothing provided in this section shall preclude, prohibit or prevent an optometrist from selling, conveying or transferring for valuable consideration, the optometrist's patient records to another licensed practitioner who is assuming his practice, provided that written notice is given to patients as provided in this section.

(Indiana Optometry Board; 852 IAC 1-12-5; filed May 11, 1987, 9:00 am: 10 IR 1877; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-6 Advertising

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 6. (a) An optometrist shall not, on behalf of himself, a partner, associate, shareholder in a professional corporation, or any other practitioner or specific health care provider affiliated with the optometrist, use, or participate in the use of, any form of public communication containing a false, fraudulent, materially misleading, deceptive statement or claim.

(b) In order to facilitate the process of informed selection of an optometrist by the public, an optometrist may advertise services through the public media including, but not limited to, a telephone directory, optometrists' directory, newspaper or other periodical, radio or television, or through a written communication not involving personal contact.

(c) If the advertisement is communicated to the public by radio, cable, or television, it shall be prerecorded, approved for broadcast by the optometrist, and a recording and transcript of the actual transmission shall be retained by the optometrist for a period of three (3) years from the last date of broadcast.

(d) If the optometrist advertises a fee for ophthalmic material, service, treatment, consultation, examination, or other procedure, the optometrist must provide that ophthalmic material, service, or procedure for no more than the fee advertised.

(e) Unless otherwise conspicuously specified in the advertisement, an optometrist who publishes or communicates fee information in a publication that is published more than one (1) time per month shall be bound by any representation made therein

for a period of thirty (30) days after the publication date. An optometrist who publishes or communicates fee information in a publication that is published once a month or less frequently shall be bound by any representation made therein until the publication of the succeeding issue unless a shorter time is conspicuously specified in the advertisement. An optometrist who publishes or communicates fee information in a publication which has no fixed date for publication for a succeeding issue shall be bound by any representation made therein for one (1) year, unless a shorter period of time is conspicuously specified in the advertisement.

(f) Unless otherwise specified in the advertisement, an optometrist who broadcasts fee information by radio, cable or television shall be bound by any representation made therein for a period of ninety (90) days after such broadcast.

(g) An optometrist who places an advertisement using a corporation name or tradename is required to identify the location or locations at which the optometric service will be provided. The name of the optometrist who will provide the optometric services must be identified at that location.

(Indiana Optometry Board; 852 IAC 1-12-6; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-12-7 Failure to comply

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 7. Failure to comply with the standards of professional conduct and competent practice of optometry specified in 852 IAC 1-11 and 852 IAC 1-12 may result in disciplinary proceedings against the offending optometrist. All optometrists licensed in Indiana shall be responsible for having knowledge of the standards of conduct and competent practice established by IC 25-24 and 852 IAC 1.

(Indiana Optometry Board; 852 IAC 1-12-7; filed May 11, 1987, 9:00 am: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

Rule 13. Revocation or Suspension of License

852 IAC 1-13-1 License revocation; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. In any case where a practitioner's license has been revoked, said person shall do the following:

(1) Promptly notify, or cause to be notified in the manner and method specified by the board, all patients then in the care of the practitioner, or those persons responsible for the patient's care, of the revocation and of the practitioner's consequent inability to act for or on their behalf in the practitioner's professional capacity. Such notice shall advise all patients to seek the services of another practitioner in good standing of their own choice.

- (2) Promptly notify, or cause to be notified, all health care facilities where such practitioner has privileges, of the revocation accompanied by a list of all patients then in the care of such practitioner.
- (3) Notify in writing, by first class mail, the following organizations and governmental agencies of the revocation of licensure:
- (A) Indiana family and social services administration.
 - (B) Social Security Administration.
 - (C) The boards or equivalent agency of each state in which the person is licensed to practice optometry.
 - (D) The Association of Regulatory Boards of Optometry.
- (4) Make reasonable arrangements with said practitioner's active patients for the transfer of all patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or by those responsible for the patient's care.
- (5) Within thirty (30) days after the date of license revocation, the practitioner shall file an affidavit with the board showing compliance with the provisions of the revocation order and with this rule, which time may be extended by the board. Such affidavit shall also state all other jurisdictions in which the practitioner is still licensed.
- (6) Proof of compliance with this section shall be a condition precedent to filing any application for licensure.
- (Indiana Optometry Board; 852 IAC 1-13-1; filed May 11, 1987, 9:00 a.m.: 10 IR 1878; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Feb 10, 2003, 3:30 p.m.: 26 IR 2373; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA)*

852 IAC 1-13-2 License suspension; duties of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) In any case where a person's license has been suspended, said person shall, within thirty (30) days from the date of the order of suspension, file with the board an affidavit that confirms the following:

- (1) All active patients then under the practitioner's care have been notified in the manner and method specified by the board of the practitioner's suspension and consequent inability to act for or on their behalf in a professional capacity. Such notice shall advise all such patients to seek the services of another practitioner of good standing of their own choice.
- (2) All health care facilities where such practitioner has privileges have been informed of the suspension order.
- (3) Reasonable arrangements were made for the transfer of patient records, studies, and test results, or copies thereof, to a succeeding practitioner employed by the patient or those responsible for the patient's care.
- (4) The following organizations and governmental agencies have been notified in writing, by first class mail, of the suspension of the practitioner's license:
 - (A) Indiana family and social services administration.
 - (B) Social Security Administration.
 - (C) The boards or equivalent agency of each state in which the person is licensed to practice optometry.

(D) The Association of Regulatory Boards of Optometry.

(b) Proof of compliance with this section shall be a condition precedent to reinstatement.

(Indiana Optometry Board; 852 IAC 1-13-2; filed May 11, 1987, 9:00 a.m.: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; filed Feb 10, 2003, 3:30 p.m.: 26 IR 2374; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA)

Rule 14. Reinstatement

852 IAC 1-14-1 Reinstatement

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. No person whose license to practice optometry in Indiana has been suspended shall be eligible for reinstatement unless that person establishes by clear and convincing evidence before the board that:

- (1) the person desires in good faith to obtain restoration of such license;
- (2) the term of suspension prescribed in the order of suspension has elapsed or seven (7) years have elapsed since the revocation;
- (3) the person has not engaged in the practice of optometry or has attempted to do so from the date discipline was imposed;
- (4) the person has complied fully with the terms, if any, of the order for suspension or revocation;
- (5) the person's attitude with regard to the misconduct, violation of law or rule, or incompetent practice for which the person was disciplined is one of genuine remorse;
- (6) the person has a proper understanding of an attitude toward the standards that are imposed by statute or rule upon persons holding such license as had been suspended and the person can be reasonably expected to conduct himself in conformity with such standards;
- (7) the person can be safely recommended to the public and applicable profession as a person fit to be reinstated and is able to practice his profession with reasonable skill and safety to patients;
- (8) the disability has been removed, corrected or otherwise brought under control if the suspension or revocation was imposed by reason of physical or mental illness or infirmity, or for use of or addiction to intoxicants or drugs;
- (9) the person has successfully taken and completed such written examinations and tests as may be required by the board, and has completed such professional training or education under a preceptorship as may be required.

(Indiana Optometry Board; 852 IAC 1-14-1; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-14-2 Petitions for reinstatement; filing fee

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) Any person whose license has been suspended may apply for reinstatement by filing with the board a petition stating that the requirements of 852 IAC 1-14-1 have been satisfied or complied with. Ten (10) copies of such petition shall be filed with the board together with a filing fee of four hundred dollars (\$400).

(b) Upon the filing of such petition and payment of the filing fee, the board shall schedule a hearing. After the hearing, the board shall determine whether the petitioner has met the requirements set forth in the disciplinary order, and shall determine whether, as a condition to reinstatement, disciplinary or corrective measures, including, but not limited to, reexamination, additional training or postgraduate education, or a preceptorship, should be imposed. The board shall thereafter, upon satisfactory compliance with 852 IAC 1-12-1 and of any and all disciplinary and corrective measures which may be imposed, enter an order continuing the suspension or reinstating the license to the petitioner.

(c) Any person filing for reinstatement shall be responsible for the payment of any and all costs incurred by the board in conducting a hearing upon said petition for reinstatement which exceed the amount of the filing fee. Any such costs shall be paid by the petitioner within fifteen (15) days of the receipt of a statement therefor from the board. In no event will there be any refund or rebate of any part of the filing fee. (*Indiana Optometry Board; 852 IAC 1-14-2; filed May 11, 1987, 9:00 am: 10 IR 1879; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA*)

Rule 15. Notification of Practice Location

852 IAC 1-15-1 Professional sign; notification of public; facility requirements

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 1. A practitioner has a duty and responsibility in the establishment of an office for the practice of optometry to maintain the following:

(1) A sign clearly visible to the public indicating the name or names of all practitioners practicing at that location. The minimum requirements on the sign are the practitioner's name and O.D. or optometrist. The sign may contain information to identify the area of practice within optometry, including low vision, contact lenses, family practice optometry, pediatric optometry, geriatric optometry, sports vision, industrial vision, or other optometric specialties. A sign may not be misleading to the public as to the practitioner actually present and performing the services.

(2) A safe and hygienic facility adequately equipped to provide optometric services.

(*Indiana Optometry Board; 852 IAC 1-15-1; filed May 11, 1987, 9:00 a.m.: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-*

852120164FRA)

852 IAC 1-15-2 Notification to board of practice location

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. (a) A practitioner has a duty and responsibility to notify the board within thirty (30) days of the establishment or discontinuation of an office for the practice of optometry. An office will be considered any location where the practitioner regularly provides optometric services or any location where his name is presented to the public as practicing optometry.

(b) A practitioner may practice optometry in a hospital, health maintenance organization, licensed health care facility, public health clinic, clinic affiliated with a school of optometry or as a consultant to industry or educational facilities without the display of a professional sign, provided the practitioner has notified the board within thirty (30) days of initiating such services.

(c) A practitioner may provide optometric services outside his office or other location reported to the board whenever the best interests of the patient require services which cannot be delivered at a previously designated location. When services are regularly delivered at the same location, it must be reported to the board as a practice location.

(Indiana Optometry Board; 852 IAC 1-15-2; filed May 11, 1987, 9:00 am: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; readopted filed Nov 25, 2013, 9:21 a.m.: 20131225-IR-852130281RFA)

852 IAC 1-15-3 Corporate practice; out of office

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. A practitioner may not be employed by a nonprofessional corporation for the purpose of practicing optometry but may contract with:

- (1) a hospital;
- (2) a school of optometry;
- (3) a health maintenance organization;
- (4) a licensed health care facility;
- (5) a public health clinic;
- (6) an industry;
- (7) an educational facility;
- (8) an insurance company; or
- (9) a governmental agency;

to provide independent optometric services.

(Indiana Optometry Board; 852 IAC 1-15-3; filed May 11, 1987, 9:00 a.m.: 10 IR 1880; readopted filed Jul 10, 2001, 3:00 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 16. Continuing Education for Renewal of License

852 IAC 1-16-1 Continuing education requirements for renewal of an optometry license

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1; IC 25-24-3

Sec. 1. (a) Twenty (20) hours of continuing education are required for renewal of an optometry license.

(b) Effective for the license period ending April 1, 2014, and every license period thereafter, optometrists are required, as part of the twenty (20) hour requirement under subsection (a), to complete two (2) hours of continuing education in any of the following areas:

(1) Medical charting.

(2) Billing and coding.

(3) Health care compliance.

(4) Compliance with federal or Indiana state laws or regulations.

(c) Courses that are approved by the board or COPE in the area of jurisprudence and medical record keeping will be accepted under this section.

(d) Courses under subsection (b) are not considered practice management courses.

(e) Programs that have not been approved under this article will not be accepted as credit for license renewal.

(f) An optometrist initially licensed between April 1 of even-numbered years and March 31 of the following odd-numbered year shall be required to obtain ten (10) hours of continuing education for the initial renewal of the license. An optometrist initially licensed between April 1 of odd-numbered years and March 31 of the following even-numbered year shall not be required to obtain continuing education for the initial renewal of the license.

(g) Continuing education credit units or clock hours:

(1) must be obtained within the biennial renewal period; and

(2) may not be carried over from one (1) licensure period to another.

A course is eligible for credit only once in a renewal cycle regardless of the number of times it is attended.

(h) If a licensee is licensed in Indiana and any other state with a mandatory continuing education requirement, the board will accept that requirement of the other state, provided the:

(1) number of clock hours or credit units; and

(2) quality;

of the continuing education equal or exceed the Indiana requirement.

(i) Any continuing education hours that are counted towards the renewal of a licensee's legend drug certificate issued under IC 25-24-3 may not be counted towards the renewal of the licensee's optometry license. Eligible credit hours earned in excess of the number of hours required to renew the optometric legend drug certificate may be counted toward the renewal of the licensee's optometry license.

(Indiana Optometry Board; 852 IAC 1-16-1; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Feb 21, 1992, 4:00 p.m.: 15 IR 1221; filed Jan 26, 1995, 4:30 p.m.: 18 IR 1477; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR

4238; filed Aug 8, 2006, 11:01 a.m.: 20060906-IR-852050325FRA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-1.1 Continuing education requirements for renewal of an optometric legend drug certificate

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3; IC 25-24-1-14

Sec. 1.1. (a) Twenty (20) hours of continuing education is required for renewal of an optometric legend drug certificate.

(b) Programs that have not been approved under this article will not be accepted as credit for renewal of the certificate.

(c) An optometrist initially certified between April 1 of even-numbered years and March 31 of the following odd-numbered year shall be required to obtain ten (10) hours of continuing education for the initial renewal of the certificate. An optometrist initially certified between April 1 of odd-numbered years and March 31 of the following even-numbered year shall not be required to obtain continuing education for the initial renewal of the certificate.

(d) Continuing education credit units or clock hours:

(1) must be obtained within the biennial renewal period; and

(2) may not be carried over from one (1) licensure period to another.

A course is eligible for credit only once in a renewal cycle regardless of the number of times it is attended.

(e) Any continuing education hours that are counted towards the renewal of a licensee's optometry license issued under IC 25-24-1-3 may not be counted towards the renewal of the licensee's optometric legend drug certificate.

(Indiana Optometry Board; 852 IAC 1-16-1.1; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-2 Responsibilities of licensees

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 2. A licensee must do the following:

(1) Certify completion of continuing education required by this rule at the time of optometry license and optometric legend drug certificate renewal.

(2) Retain verification of completion of continuing education required by this rule for three (3) years after the last renewal date.

(3) Present verification of completion of continuing education required by this rule at the request of the board.

(Indiana Optometry Board; 852 IAC 1-16-2; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238; filed Aug 8, 2006, 11:01 a.m.: 20060906-IR-852050325FRA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-3 Application for approval of continuing education sponsor

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 3. (a) The sponsoring organization must file an application provided by the agency not later than thirty (30) days after the beginning date of the program. The application must contain the following information:

- (1) The name of the speaker.
- (2) The academic and professional background of the speaker.
- (3) A thorough description of the content of the program.
- (4) The date and location of the program.
- (5) The number of clock hours of continuing education requested.
- (6) The name of the person or persons who will monitor attendance and the manner in which attendance will be monitored.
- (7) Any other pertinent information required by the board.

(b) As a condition to approval of programs, the sponsoring organization must agree to provide participants with a record of attendance. The record of attendance shall state the following:

- (1) The name of the participant.
- (2) The name of the sponsoring organization.
- (3) The title of the program.
- (4) The name of the speaker or speakers.
- (5) The date of the program.
- (6) The location of the program.
- (7) The number of clock hours and type of continuing education hours requested.
- (c) The sponsor shall retain records of attendance by participants for three (3)

years from the date of the program.

(Indiana Optometry Board; 852 IAC 1-16-3; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Mar 26, 1993, 5:00 p.m.: 16 IR 1954; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238; filed Aug 8, 2006, 11:01 a.m.: 20060906-IR-852050325FRA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-4 Standards for approval of optometry continuing education hours

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 4. (a) The board will approve a course if it determines that the course will make a significant contribution to the professional competency of optometrists who enroll.

(b) In determining if a course meets this standard, the board will consider whether the following requirements are met:

- (1) The course has substantial content.
- (2) The course content directly relates to the professional practice of optometry. Practice management courses will not be approved by the board.
- (3) Each faculty member or speaker who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject.
- (4) The physical setting for the course is suitable.

(5) High quality written materials, including notes and outlines, are available to all optometrists who enroll at or prior to the time the course is offered.

(6) The course is of sufficient length to provide a substantial educational experience. Courses of less than one (1) hour will be reviewed carefully to determine if they furnish a substantial educational experience.

(7) Appropriate educational methodology is used, including, but not limited to, the following:

- (A) Prepared library packages.
- (B) Courses of programmed instruction.
- (C) Active participation and demonstration.
- (D) Audio-visual materials.

(8) An adequate number of faculty members or speakers are provided for the course. If audio-visual media are used as teaching materials, live presentations or discussion leaders must accompany the replaying of the media presentation.

(Indiana Optometry Board; 852 IAC 1-16-4; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2737; filed Jan 3, 2000, 10:07 a.m.: 23 IR 1106; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-4.1 Standards for approval for optometric legend drug continuing education hours

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14.1

Sec. 4.1. (a) The board will approve a course for optometric legend drug continuing education if it determines that the course will make a significant contribution to the professional competency of optometrists who enroll.

(b) In determining if a course meets the requirements of this section, the board will consider whether the following requirements are met:

- (1) The course has substantial content.
- (2) The course content directly relates to ocular pharmacology or ocular therapeutics.
- (3) Each faculty member or speaker who has teaching responsibility in the course is qualified by academic work or practical experience to teach the assigned subject.
- (4) The physical setting for the course is suitable.
- (5) High quality materials, including notes and outlines, are available to all optometrists in either print or electronic format.
- (6) The course is of sufficient length to provide a substantial educational experience.
- (7) Appropriate educational methodology is used, including, but not limited to, the following:
 - (A) Prepared library packages.
 - (B) Courses of programmed instruction.
 - (C) Active participation and demonstration.
 - (D) Audio-visual materials.

(8) An adequate number of faculty members or speakers are provided for the course. If audio-visual media are used as teaching materials, live presentations or discussion leaders must accompany the replaying of the media.

(c) Courses that are approved by COPE in the areas of ocular pharmacology or ocular therapeutics are acceptable and no approval by the board is required. Automatic approval of COPE approved courses will cease immediately upon notice from COPE that approval of the course has been discontinued for any reason.

(d) Courses approved by COPE in the following areas are automatically approved for optometric legend drug continuing education:

- (1) Glaucoma (GL).
- (2) Perioperative management of ophthalmic surgery (PO).
- (3) Refractive surgery management (RS).
- (4) Treatment and management of ocular disease: anterior segment (AS).
- (5) Treatment and management of ocular disease: posterior segment (PS).
- (6) Pharmacology (PH).
- (7) Systemic and ocular disease (SD).
- (8) Oral pharmaceutical (OP).
- (9) Other COPE courses approved by the board.

(Indiana Optometry Board; 852 IAC 1-16-4.1; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-5 Penalty for noncompliance

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 5. The board will not issue a renewed optometry license to a licensee who fails to comply with 852 IAC 1-16-1, except for an inactive license as provided by IC 25-24-1-14.

(Indiana Optometry Board; 852 IAC 1-16-5; filed Jul 23, 1987, 9:15 a.m.: 10 IR 2738; readopted filed Jul 10, 2001, 2:59 p.m.: 24 IR 4238; readopted filed Jul 19, 2007, 12:56 p.m.: 20070808-IR-852070059RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-6 Continuing education sources (Repealed)

Sec. 6. *(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

852 IAC 1-16-6.5 Continuing education for speakers

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 6.5. (a) An optometrist who acts as a speaker, lecturer, or other presenter may be awarded one (1) hour of continuing education credit for each hour of the continuing education course taught.

(b) Not more than four (4) hours per renewal period will be awarded.

(c) The following conditions must be met:

- (1) The presentation is eligible for credit only once regardless of the number of times it is presented.

(2) The optometrist maintains a record for the time, place, and date of the presentation.

(3) The presentation is sponsored by an approved organization or is approved by the board.

(Indiana Optometry Board; 852 IAC 1-16-6.5; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-7 Self-study

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 7. (a) Self-study shall include the following:

- (1) Journals and books.
- (2) Audiotapes.
- (3) Films and videotapes.
- (4) Internet online.
- (5) Closed circuit television.
- (6) Satellite broadcasts.
- (7) Correspondence courses.
- (8) CD-ROM.
- (9) DVD.
- (10) Teleconferencing.
- (11) Videoconferencing.
- (12) Distance learning.

(b) In order to be accepted as continuing education for an optometry license and optometric legend drug certificate renewal, self-study methods of presentation must include a written examination or postevaluation.

(c) Self-study continuing education for an optometry license and optometric legend drug certificate renewal shall be limited to a total of eight (8) hours biennially.

(Indiana Optometry Board; 852 IAC 1-16-7; filed Aug 8, 2006, 11:01 a.m.: 20060906-IR-852050325FRA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-16-8 Continuing education programs deemed approved

Authority: IC 25-24-1-1

Affected: IC 25-24-1-14; IC 25-24-1-14.1

Sec. 8. Notwithstanding section 4 of this rule, continuing education programs for optometrists, but not practice management courses, sponsored by the following are deemed approved and no approval by the board shall be required:

- (1) The Indiana Optometric Association and its affiliates.
- (2) The American Optometric Association (AOA).
- (3) COPE.
- (4) The American Academy of Optometry and its affiliate organizations.
- (5) A national or regional organization accredited as a provider of ophthalmic continuing medical education (CME) by the Accreditation Council For Continuing Medical Education (ACCME).
- (6) Other state optometric associations and their affiliate local societies.
- (7) Regional optometric associations.

- (8) Postgraduate courses offered at any accredited school of optometry.
- (9) Completion of a basic life support (BLS) or cardiopulmonary resuscitation (CPR) course approved by the American Heart Association, the American Red Cross, or a provider approved by the board will be granted up to two (2) hours of continuing education credit per renewal period.

(Indiana Optometry Board; 852 IAC 1-16-8; filed Aug 8, 2006, 11:01 a.m.: 20060906-IR-852050325FRA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 17. Limited License

852 IAC 1-17-1 Application file; contents

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3.2

Sec. 1. (a) An applicant for a limited license shall submit the following:

- (1) An application filed on a form prescribed by the board and provided by the agency.
- (2) The fee required by 852 IAC 1-10-1.
- (3) Official transcripts, certified by the school, recording courses, grades, certificates, and degrees earned in an optometry school accredited by the Accreditation Council on Optometric Education. If not in English, the applicant must provide an official translation.
- (4) One (1) passport-quality photograph taken not earlier than one (1) year prior to the date of application, dated and signed on the back in the applicant's handwriting, "I certify that this is a true photograph of me."
- (5) A copy of the applicant's curriculum vitae.
- (6) A statement from the dean at Indiana University that shall include the date of faculty appointment and subject or subjects being taught.
- (7) Verification of licensure status provided to the board directly by the appropriate agency in each state or country where the applicant holds or has held a license to practice optometry.
- (8) An applicant must provide verification of licensure directly from the appropriate agency in the state or country where the applicant holds a current license to practice optometry.
- (9) Verification of areas of examination, type of examination, pass-fail criteria, and the applicant's score in each area of the examination provided to the board directly by the state or country in which the applicant took the examination.

(b) The dean at Indiana University School of Optometry may be contacted in order to validate the suitability of the applicant for a limited license.

(Indiana Optometry Board; 852 IAC 1-17-1; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-17-2 Jurisprudence examination

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 2. An applicant for a limited license must pass an examination covering Indiana law relating to the practice of optometry. A score of seventy-five (75) or above is passing.

(Indiana Optometry Board; 852 IAC 1-17-2; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

852 IAC 1-17-3 Renewal of a limited license

Authority: IC 25-24-1-1

Affected: IC 25-24-1-3

Sec. 3. All limited license holders are required to complete twenty (20) hours of continuing education every biennium as specified in 852 IAC 1-16-1.

(Indiana Optometry Board; 852 IAC 1-17-3; filed Jan 6, 2003, 10:23 a.m.: 26 IR 1561; readopted filed Dec 1, 2009, 9:13 a.m.: 20091223-IR-852090781RFA; readopted filed Jun 16, 2010, 12:14 p.m.: 20100630-IR-852090781RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

ARTICLE 2. CERTIFICATION (REPEALED)

(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

ARTICLE 3. FORMULARY OF LEGEND DRUGS

Rule 1. General Provisions

852 IAC 3-1-1 Applicability (Repealed)

Sec. 1. *(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

852 IAC 3-1-2 Legend drugs not listed in the formulary (Repealed)

Sec. 2. *(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

852 IAC 3-1-3 Certified optometrists required (Repealed)

Sec. 3. *(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)*

852 IAC 3-1-4 Injectable prohibition (Expired)

Sec. 4. *(Expired under IC 4-22-2.5, effective January 1, 2014.)*

Rule 2. Definitions (Repealed)

(Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

Rule 3. Formulary

852 IAC 3-3-1 Formulary of legend drugs

Authority: IC 25-24-3-10

Affected: IC 25-24-3-16; IC 35-48-1

Sec. 1. (a) The formulary of legend drugs established under IC 25-24-3-10(1)(A) is any legend drug for the treatment of the eye or associated structures of the eye.

(b) All formulary drugs may be independently prescribed by an optometrist.

(c) Controlled substances as defined in IC 35-48-1 are prohibited from use by an optometrist. (*Indiana Optometry Board*;

852 IAC 3-3-1; filed Feb 4, 1994, 5:00 p.m.: 17 IR 1099; filed Jun 30, 1999, 2:45 p.m.: 22 IR 3414; readopted filed Apr 24, 2001, 10:21 a.m.: 24 IR 2896; filed Nov 25, 2002, 10:30 a.m.: 26 IR 1104; readopted filed Sep 26, 2008, 10:54 a.m.: 20081015-IR-852080345RFA; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA)

NOTE: Transferred from the Indiana Optometric Legend Drug Prescription Advisory Committee (857 IAC 2-3- 16) to the Indiana Optometry Board (852 IAC 3-3-1) by P.L.157-2006, SECTION 77, effective July 1, 2006.

852 IAC 3-3-2 Patient's physician notification (Repealed)

Sec. 2. (*Repealed by Indiana Optometry Board; filed Aug 30, 2012, 2:03 p.m.: 20120926-IR-852120164FRA*)

Indiana Code § 16-39
Article 39. Health Records
Indiana Code § 16-39-1

Chapter 1. Release of Health Records to Patient and Authorized Persons

IC 16-39-1-1 Right of access; written requests; effective duration

Sec. 1. (a) This section applies to all health records except mental health records, which are governed by IC 16-39-2, IC 16-39-3, and IC 16-39-4.

(b) This article applies to all health records, except:

- (1) records regarding communicable diseases, which are governed by IC 16-41-8-1; or
- (2) records regarding alcohol and other drug abuse patient records, which are governed by 42 CFR, Part 2.

(c) On written request and reasonable notice, a provider shall supply to a patient the health records possessed by the provider concerning the patient. Subject to 15 U.S.C. 7601 et seq. and 16 CFR Part 315, information regarding contact lenses must be given using the following guidelines:

- (1) After the release of a patient from an initial fitting and follow-up period of not more than six (6) months, the contact lens prescription must be released to the patient at the patient's request.
- (2) A prescription released under subdivision (1) must contain all information required to properly duplicate the contact lenses.
- (3) A contact lens prescription must include the following:
 - (A) An expiration date of one (1) year.
 - (B) The number of refills permitted.
- (4) Instructions for use must be consistent with:
 - (A) recommendations of the contact lens manufacturer;
 - (B) clinical practice guidelines; and
 - (C) the professional judgment of the prescribing optometrist or physician licensed under IC 25-22.5.

After the release of a contact lens prescription under this subsection, liability for future fittings or dispensing of contact lenses under the original prescription lies with the dispensing company or practitioner.

(d) On a patient's written request and reasonable notice, a provider shall furnish to the patient or the patient's designee the following:

- (1) A copy of the patient's health record used in assessing the patient's health condition.
- (2) At the option of the patient, the pertinent part of the patient's health record relating to a specific condition, as requested by the patient.

(e) A request made under this section is valid for sixty (60) days after the date the request is made.

As added by P.L.2-1993, SEC.22. Amended by P.L.40-1994, SEC.66; P.L.102-1994, SEC.1; P.L.2-1995, SEC.72; P.L.108-1996, SEC.4; P.L.157-2006, SEC.4.

Indiana Code § 35-45
Article 45. Offenses Against Public Health, Order, and Decency
Indiana Code § 35-45-20
Chapter 20. Dispensing Contact Lenses Without a Prescription

IC 35-45-20-1 "Prescription"

Sec. 1. As used in this chapter, "prescription" means a written or electronically transmitted contact lens prescription or order that:

(1) is issued by an optometrist licensed under IC 25-24 or a physician licensed under IC 25-22.5; and

(2) was issued within the previous year.

As added by P.L.49-2009, SEC.1.

IC 35-45-20-2 Unlawful contact lens dispensing

Sec. 2. A person who dispenses a contact lens, including a contact lens without corrective power, to an individual who does not have a prescription for the contact lens being dispensed commits a Class A infraction.

As added by P.L.49-2009, SEC.1.

CODE OF FEDERAL REGULATIONS
TITLE 16 – Commercial Practices
CHAPTER 1 – Federal Trade Commission
PART 315 – Contact Lens Rule

This is an UNOFFICIAL version of the Code of Federal Regulations prepared by the Indiana Professional Licensing Agency. An official version should be available through your public library and can be accessed on the Internet at:
http://www.access.gpo.gov/nara/cfr/waisidx_10/16cfr315_10.html.

PART 315—CONTACT LENS RULE

Sec.

- 315.1 Scope of regulations in this part.
- 315.2 Definitions.
- 315.3 Availability of contact lens prescriptions to patients.
- 315.4 Limits on requiring immediate payment.
- 315.5 Prescriber verification.
- 315.6 Expiration of contact lens prescriptions.
- 315.7 Content of advertisements and other representations.
- 315.8 Prohibition of certain waivers.
- 315.9 Enforcement.
- 315.10 Severability.
- 315.11 Effect on state and local laws.

AUTHORITY: Pub. L. 108–164, secs. 1–12; 117 Stat. 2024 (15 U.S.C. 7601–7610).

SOURCE: 69 FR 40508, July 2, 2004, unless otherwise noted.

315.1 Scope of regulations in this part.

This part, which shall be called the “Contact Lens Rule,” implements the Fairness to Contact Lens Consumers Act, codified at 15 U.S.C. 7601-7610, which requires that rules be issued to address the release, verification, and sale of contact lens prescriptions. This part specifically governs contact lens prescriptions and related issues. Part 456 of Title 16 governs the availability of eyeglass prescriptions and related issues (the Ophthalmic Practice Rules (Eyeglass Rule)).

315.2 Definitions.

For purposes of this part, the following definitions shall apply:

Business hour means an hour between 9 a.m. and 5 p.m., during a weekday (Monday through Friday), excluding Federal holidays. “Business hour” also may include, at the seller's option, a prescriber's regular business hours on Saturdays, provided that the seller has actual knowledge of these hours. “Business hour” shall be determined based on the time zone of the prescriber.

“Eight (8) business hours” shall be calculated from the time the prescriber receives the prescription verification information from the seller, and shall conclude when eight (8) business hours have elapsed. For verification requests received by a prescriber during non-business hours, the calculation of “eight (8) business hours” shall begin at 9 a.m. on

the next weekday that is not a Federal holiday or, if applicable, on Saturday at the beginning of the prescriber's actual business hours.

Commission means the Federal Trade Commission.

Contact lens means any contact lens for which State or Federal law requires a prescription.

Contact lens fitting means the process that begins after an initial eye examination for contact lenses and ends when a successful fit has been achieved or, in the case of a renewal prescription, ends when the prescriber determines that no change in the existing prescription is required, and such term may include:

- (1) An examination to determine lens specifications;
- (2) Except in the case of a renewal of a contact lens prescription, an initial evaluation of the fit of the contact lens on the eye; and
- (3) Medically necessary follow-up examinations.

Contact lens prescription means a prescription, issued in accordance with State and Federal law, that contains sufficient information for the complete and accurate filling of a prescription for contact lenses, including the following:

- (1) The name of the patient;
- (2) The date of examination;
- (3) The issue date and expiration date of prescription;
- (4) The name, postal address, telephone number, and facsimile telephone number of prescriber;
- (5) The power, material or manufacturer or both of the prescribed contact lens;
- (6) The base curve or appropriate designation of the prescribed contact lens;
- (7) The diameter, when appropriate, of the prescribed contact lens; and
- (8) In the case of a private label contact lens, the name of the manufacturer, trade name of the private label brand, and, if applicable, trade name of equivalent brand name.

Direct communication means completed communication by telephone, facsimile, or electronic mail.

Issue date means the date on which the patient receives a copy of the prescription at the completion of a contact lens fitting.

Ophthalmic goods are contact lenses, eyeglasses, or any component of eyeglasses.

Ophthalmic services are the measuring, fitting, and adjusting of ophthalmic goods subsequent to an eye examination.

Prescriber means, with respect to contact lens prescriptions, an ophthalmologist, optometrist, or other person permitted under State law to issue prescriptions for contact lenses in compliance with any applicable requirements established by the Food and Drug Administration.

“Other person,” for purposes of this definition, includes a dispensing optician who is permitted under State law to issue prescriptions and who is authorized or permitted under State law to perform contact lens fitting services.

Private label contact lenses mean contact lenses that are sold under the label of a seller where the contact lenses are identical to lenses made by the same manufacturer but sold under the labels of other sellers.

315.3 Availability of contact lens prescriptions to patients.

(a) *In general.* When a prescriber completes a contact lens fitting, the prescriber:

(1) Whether or not requested by the patient, shall provide to the patient a copy of the contact lens prescription; and

(2) Shall, as directed by any person designated to act on behalf of the patient, provide or verify the contact lens prescription by electronic or other means.

(b) *Limitations.* A prescriber may not:

(1) Require the purchase of contact lenses from the prescriber or from another person as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section;

(2) Require payment in addition to, or as part of, the fee for an eye examination, fitting, and evaluation as a condition of providing a copy of a prescription under paragraph (a)(1) or (a)(2) of this section or as a condition of verification of a prescription under paragraph (a)(2) of this section; or

(3) Require the patient to sign a waiver or release as a condition of releasing or verifying a prescription under paragraph (a)(1) or (a)(2) of this section.

315.4 Limits on requiring immediate payment.

A prescriber may require payment of fees for an eye examination, fitting, and evaluation before the release of a contact lens prescription, but only if the prescriber requires immediate payment in the case of an examination that reveals no requirement for ophthalmic goods. For purposes of the preceding sentence, presentation of proof of insurance coverage for that service shall be deemed to be a payment.

315.5 Prescriber verification.

(a) *Prescription requirement.* A seller may sell contact lenses only in accordance with a contact lens prescription for the patient that is:

(1) Presented to the seller by the patient or prescriber directly or by facsimile; or

(2) Verified by direct communication.

(b) *Information for verification.* When seeking verification of a contact lens prescription, a seller shall provide the prescriber with the following information through direct communication:

(1) The patient's full name and address;

(2) The contact lens power, manufacturer, base curve or appropriate designation, and diameter when appropriate;

(3) The quantity of lenses ordered;

(4) The date of patient request;

(5) The date and time of verification request;

(6) The name of a contact person at the seller's company, including facsimile and telephone numbers; and

(7) If the seller opts to include the prescriber's regular business hours on Saturdays as "business hours" for purposes of paragraph (c)(3) of this section, a clear statement of the prescriber's regular Saturday business hours.

(c) *Verification events.* A prescription is verified under paragraph (a)(2) of this section only if one of the following occurs:

(1) The prescriber confirms the prescription is accurate by direct communication with the seller;

- (2) The prescriber informs the seller through direct communication that the prescription is inaccurate and provides the accurate prescription; or
- (3) The prescriber fails to communicate with the seller within eight (8) business hours after receiving from the seller the information described in paragraph (b) of this section. During these eight (8) business hours, the seller shall provide a reasonable opportunity for the prescriber to communicate with the seller concerning the verification request.

(d) **Invalid prescription.** If a prescriber informs a seller before the deadline under paragraph (c)(3) of this section that the contact lens prescription is inaccurate, expired, or otherwise invalid, the seller shall not fill the prescription. The prescriber shall specify the basis for the inaccuracy or invalidity of the prescription. If the prescription communicated by the seller to the prescriber is inaccurate, the prescriber shall correct it, and the prescription shall then be deemed verified under paragraph (c)(2) of this section.

(e) **No alteration of prescription.** A seller may not alter a contact lens prescription. Notwithstanding the preceding sentence, a seller may substitute for private label contact lenses specified on a prescription identical contact lenses that the same company manufactures and sells under different labels.

(f) **Recordkeeping requirement—verification requests.** A seller shall maintain a record of all direct communications referred to in paragraph (a) of this section. Such record shall consist of the following:

- (1) For prescriptions presented to the seller: the prescription itself, or the facsimile version thereof (including an email containing a digital image of the prescription), that was presented to the seller by the patient or prescriber.

- (2) For verification requests by the seller:

- (i) If the communication occurs via facsimile or e-mail, a copy of the verification request, including the information provided to the prescriber pursuant to paragraph (b) of this section, and confirmation of the completed transmission thereof, including a record of the date and time the request was made;

- (ii) If the communication occurs via telephone, a log:

- (A) Describing the information provided pursuant to paragraph (b) of this section,

- (B) Setting forth the date and time the request was made,

- (C) Indicating how the call was completed, and

- (D) Listing the names of the individuals who participated in the call.

- (3) For communications from the prescriber, including prescription verifications:

- (i) If the communication occurs via facsimile or e-mail, a copy of the communication and a record of the time and date it was received;

- (ii) If the communication occurs via telephone, a log describing the information communicated, the date and time that the information was received, and the names of the individuals who participated in the call.

- (4) The records required to be maintained under this section shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

(g) **Recordkeeping requirement—Saturday business hours.** A seller that exercises its option to include a prescriber's regular Saturday business hours in the time period for verification specified in §315.5(c)(3) shall maintain a record of the prescriber's regular Saturday business hours and the basis for the seller's actual knowledge thereof. Such

records shall be maintained for a period of not less than three years, and these records must be available for inspection by the Federal Trade Commission, its employees, and its representatives.

315.6 Expiration of contact lens prescriptions.

(a) ***In general.*** A contact lens prescription shall expire:

- (1) On the date specified by the law of the State in which the prescription was written, if that date is one year or more after the issue date of the prescription;
- (2) Not less than one year after the issue date of the prescription if such State law specifies no date or specifies a date that is less than one year after the issue date of the prescription; or
- (3) Notwithstanding paragraphs (a)(1) and (a)(2) of this section, on the date specified by the prescriber, if that date is based on the medical judgment of the prescriber with respect to the ocular health of the patient.

(b) ***Special rules for prescriptions of less than one year.***

- (1) If a prescription expires in less than one year, the specific reasons for the medical judgment referred to in paragraph (a)(3) of this section shall be documented in the patient's medical record with sufficient detail to allow for review by a qualified professional in the field.
- (2) The documentation described in the paragraph above shall be maintained for a period of not less than three years, and it must be available for inspection by the Federal Trade Commission, its employees, and its representatives.
- (3) No prescriber shall include an expiration date on a prescription that is less than the period of time that he or she recommends for a reexamination of the patient that is medically necessary.

315.7 Content of advertisements and other representations.

Any person who engages in the manufacture, processing, assembly, sale, offering for sale, or distribution of contact lenses may not represent, by advertisement, sales presentation, or otherwise, that contact lenses may be obtained without a prescription.

315.8 Prohibition of certain waivers.

A prescriber may not place on a prescription, or require the patient to sign, or deliver to the patient, a form or notice waiving or disclaiming the liability or responsibility of the prescriber for the accuracy of the eye examination. The preceding sentence does not impose liability on a prescriber for the ophthalmic goods and services dispensed by another seller pursuant to the prescriber's correctly verified prescription.

315.9 Enforcement.

Any violation of this Rule shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, regarding unfair or deceptive acts or practices, and the Commission will enforce this Rule in the same manner, by the same means, and with the same jurisdiction, powers, and duties as are available to it pursuant to the Federal Trade Commission Act, 15 U.S.C. 41 et seq.

315.10 Severability.

The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

315.11 Effect on state and local laws.

(a) State and local laws and regulations that establish a prescription expiration date of less than one year or that restrict prescription release or require active verification are preempted.

(b) Any other State or local laws or regulations that are inconsistent with the Act or this part are preempted to the extent of the inconsistency.